

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ALFONSO PERCY PEW,

Plaintiff,

v.

CORRECTIONAL OFFICER ACE, *et al.*,

Defendants.

No. 1:21-CV-01694

(Chief Judge Brann)

(Magistrate Judge Carlson)

ORDER

SEPTEMBER 20, 2023

Alfonso Percy Pew, a Pennsylvania state prisoner, filed this civil rights complaint alleging that Defendants violated his rights by deploying pepper spray on a different inmate in a different cell at Pew's place of incarceration.¹ On August 28, 2023, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court grant Defendants' motion for summary judgment.² Pew has not filed timely objections to the Report and Recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.³ Conversely, "[i]f a party objects timely to a magistrate judge's report and recommendation, the district court must

¹ Doc. 1.

² Doc. 50.

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁴ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁵ Upon review of the record, the Court finds no error—clear or otherwise—in Magistrate Judge Carlson’s recommendation that the Court grant summary judgment in Defendants’ favor. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 50) is **ADOPTED**;
2. Defendants’ motion for summary judgment (Doc. 35) is **GRANTED** and judgment is entered in favor of Defendants; and
3. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge

⁴ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁵ 28 U.S.C. § 636(b)(1); Local Rule 72.31.